

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

CERTIFIED MAIL

MAR 20 1991

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates you were organized pursuant to Articles of Association on [REDACTED], as a [REDACTED].

The organization does not have any by-laws or an operational document. However, you state your deacons are volunteers who serve for life or until they resign; you have no power to remove or replace the pastor (or, apparently the deacons) for any cause, and the congregation has no control.

Your income is derived from tithes and offerings; church and Easter bazaars; and fundraisers. You have not distinguished fund-raising income (sales income) from contributions; therefore, it cannot be determined from the information submitted what part of the total income is from sales and what part is contributions. Nevertheless, although you state you have [REDACTED] members you also state that [REDACTED]% of your total income (including the sales as well as contributions) is received from your pastor and officers.

Expenditures have been for the operating cost of the building referred to as the "rectory" (i.e., gas and electric; telephone; water; repair and maintenance; dues and subscriptions; food and supplies; and exterminator). In addition, the pastor receives a housing allowance of \$[REDACTED] a month. Also, the mortgage on the "rectory" is paid by the Association.

Information submitted states no one lives at the rectory, but members are allowed to stay over and use it. However, the information submitted does not provide details as to how this should be an expense of the church.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious, scientific, literary or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual. A shareholder refers to anyone having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides, in part, that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(ii) of the Regulations provides that an organization is not organized and operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve a private interest.

The rectory for which the Association pays all expenses is presently owned by [REDACTED] individuals, of which one is the pastor. Information submitted states the property will eventually be donated to the Association. However, specific plans to transfer the property have not been effectuated to date. By having the Association pay all the expenses which are the obligation of the [REDACTED] owners, their equity is increasing along with the basis for deduction if the property is subsequently donated to the Association. In addition, information submitted states the Association plans to build a church building on the property. However, it is not explained if this is to be done while the property is owned by the individuals, which would further increase the value of the property to them. Based on the above, there is private benefit to the three individuals owning the property. The Association is serving the private interest of the owners of the property and, therefore, is not operating exclusively for charitable and religious purposes within the meaning of section 501(c)(3) of the Code.

You are required to file federal income tax returns on Form 1120 for each year that you have been in existence. Contributions to you are not deductible under section 170 of the Code.

[REDACTED]

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the Regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you do not appeal this determination within 30 days of this letter, as explained in Publication 892, this letter will become our final determination on this matter. Further, if you do not appeal this determination within the time provided, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States or the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

In accordance with section 6104(c) of the Internal Revenue Code, we will notify the appropriate state officials of this action.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892

cc: State Attorney General [REDACTED]